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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ELITE IT PARTNERS, INC., a Utah corporation doing business as ELITE IT HOME, and

JAMES MICHAEL MARTNIOS, individually and as an officer of ELITE IT PARTNERS, INC.,

Defendants.

**MEMORANDUM DECISION AND  
ORDER GRANTING RECEIVER'S  
UNOPPOSED MOTION TO APPROVE  
SALE OF VEHICLE**

2:19-cv-125-RJS-CMR

Chief District Judge Robert J. Shelby

Magistrate Judge Cecilia M. Romero

Before the court is the Receiver's Unopposed Motion to Approve Sale of Vehicle.<sup>1</sup> In the Motion, the Receiver requests the court waive the private sale requirements of 28 U.S.C. §§ 2001, 2004. For the following reasons, the court waives the statutory requirements and GRANTS the Receiver's Motion.

A court has the discretion to waive the statutory requirements for the sale of *personal* property.<sup>2</sup> The Receiver's Motion concerns the sale of a Ford F-150. Because it is not permanently affixed to land, a Ford F-150 is personal property.<sup>3</sup> For a few reasons, the court exercises its discretion to waive the statutory requirements. The used car market is established.

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<sup>1</sup> Dkt. 118.

<sup>2</sup> See 28 U.S.C. § 2004 ("Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with section 2001 of this title, *unless the court orders otherwise.*"); *SEC v. Wilson*, No. 12-CV-15062, 2013 WL 1283437, at \*1 (E.D. Mich. Mar. 28, 2013).

<sup>3</sup> See, e.g., *Crystal Car Line v. State Tax Comm'n*, 110 Utah 426, 436 (1946); see also *Humble Oil & Ref. Co. v. Copeland*, 398 F.2d 364, 366 (4th Cir. 1968) ("Whether property is real or personal is determined by the law of the state where it is situated.").

The sale price is fair. And the costs of meeting the statutory requirements would unproductively erode the receivership estate. Accordingly, the court GRANTS the Receiver's Motion.

SO ORDERED this 14th day of June, 2019.

BY THE COURT:



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ROBERT J. SHELBY  
Chief United States District Judge